THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 24894 of 1996

Dated: 20.02.2007

Between:

Mahamood Ali & others.

... Petitioners

AND

The A.P. State Road Transport Corporation,
Rep., by its Managing Director,
Mushirabad, Hyderabad & others.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 24894 of 1996

ORDER:-

The petitioners, in response to an employment notification published on 18.09.1990 by respondent No.2 to fill up various posts, applied for the posts of Tyre Mechanic. The petitioners' names were included in the provisional selection list issued by the office of the 3rd respondent on 13.09.1992. They stand at Sl.Nos.8, 10 and 11 respectively. As the petitioners were not appointed in pursuance of the provisional selection list, the present writ petition is filed.

In the affidavit filed in support of the writ petition, the petitioners averred that though 11 posts were notified, the respondents filled up only 6 vacancies and that there are still 5 vacancies left. The respondents are not justified in keeping them vacant without appointing the petitioners. The petitioners also claimed that they approached the respondents on several occasions and that the latter promised them that they are going to issue necessary appointment orders shortly.

The Chief Law Officer of Andhra Pradesh State Road Transport Corporation filed a counter-affidavit wherein it submitted that the department selection committee provisionally selected 11

candidates and kept them in a panel, which was notified on 22.09.1992. It is further stated that the panel was valid up to 07.04.1993. While admitting that the petitioners figured at Sl.Nos.8, 10 and 11, the respondents filled up only six posts as per the requirement from out of the 11 selected candidates. It is further averred in the counter-affidavit that even some of the persons, who are above the petitioners were also not appointed.

Sri Sridhar Rao, learned counsel for the petitioners reiterated the contentions contained in the affidavit filed in support of the writ petition and submitted that the action of the respondents in not appointing the petitioners who are admittedly selected is arbitrary and illegal.

Per contra, Sri M.R.Bose, representing Sri P.Vinayak Swamy, learned Standing Counsel for APSRTC submitted that the respondents had the requirement of filling up of only six vacancies. The persons, who were selected and included at Sl.Nos.1 to 6 in the provisional selection list, were appointed in those vacancies. Since the department did not require other vacancies to be filled up, the persons selected and included from Sl.No.7 onwards, including the petitioners, were not appointed. He further submits that the action of the respondents cannot be said to be unjustified, arbitrary or illegal.

The legal position is fairly well settled that a selected candidate has no indefeasible right for appointment to a post merely on the ground that his name is included in the selection list. Even assuming that the contention of the respondents that the selection list is nothing but a panel prepared for a specific duration is not correct, the petitioners still cannot succeed, for the

reason that they failed to show that ignoring them the respondents have appointed any person who was selected and included in the selection list below them. It is absolutely in the realm of the discretion of the employer to decide as to how many posts to be filled up out of the posts notified. Merely because certain number of posts are notified and a selection list is drawn up, the discretion of the employer is not curtailed so as to enable the selected candidates to insist that each one of them shall be appointed by the employer. The learned counsel for the petitioners has not denied the assertion made by the respondents that the candidates at Sl.Nos.1 to 6 of the selection list were appointed and that no person who is below the petitioners in the seniority list was appointed ignoring the claims of the petitioners. In this factual matrix of the case, I do not see any reason to grant relief to the petitioners for any direction to appoint them in pursuance of the provisional selection list dated 13.09.1992.

For the aforementioned reasons, the writ petition fails and is accordingly dismissed. No order as to costs.

_____

C.V. NAGARJUNA REDDY, J

Date: 20.02.2007
ES